

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MICROSOFT CORPORATION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:08-CV-0098-L
	§	
DAUBEN, INC. d/b/a TEXAS	§	ECF
INTERNATIONAL PROPERTY	§	
ASSOCIATES,	§	
	§	
Defendant.	§	
	§	

DEFENDANT'S INITIAL DISCLOSURES

TO: Plaintiff **Microsoft Corporation** by and through its attorney of record, John W. Patton, KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201.

Defendant Dauben, Inc. d/b/a Texas International Property Associates submits the following Initial Disclosures in accordance with FED. R. CIV. P. 26 and states as follows:

1. Persons Having Knowledge of Relevant Facts:

- A. Joseph "Joey" Dauben, President, Dauben, Inc. d/b/a Texas International Property Associates, 4041 W. Wheatland, Suite 156-417, Dallas, Texas 75237 USA; 214.632.7290; knowledge of good faith registration and fair use of domain names containing certain trademarks held by Plaintiff, interference by Plaintiff with TIPA's use of the domain names.
- B. Microsoft Corporation, One Microsoft Way, Redmond, WA 98052, 800.642.7676, employees, officer, agents and any custodian of records thereof; knowledge of generic and descriptive nature of various trademarks held by Plaintiff, knowledge of lack of confusion between alleged marks and TIPA's domain names and other matters relevant to TIPA's prosecution of this case
- C. Hitfarm.com; Erin Court, Bishop's Court Hill, Saint Michael, Barbados 246.435.0522. Knowledge of its control of content of the websites, Plaintiff's failure to request a change to content of the websites, contact with Google and/or Yahoo regarding sponsored links on the page.

- D. United States Department of Commerce, Patent and Trademark Office, Assistance Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, and examining attorney(s), agents and custodian of records thereof; Knowledge of application by Plaintiff for trademarks.

Defendant reserves the right to supplement this list as the discovery process has not yet begun and will be ongoing. In addition, Defendant may also call witnesses to rebut evidence presented by Plaintiff including, but not limited to, expert witnesses.

2. Relevant Nonprivileged Documents:

Defendant has the following relevant nonprivileged documents, which are identified herein and available for inspection upon reasonable notice:

- A. Printouts of Internet websites and other publicly available documents demonstrating common usage of certain trademarks held by Plaintiff as a generic and/or descriptive phrase.
- B. Printouts of Internet websites and other publicly available documents demonstrating the fair use by others of certain trademarks held by Plaintiff.
- C. WHOIS records demonstrating TIPA's registration of the contested domain names.

3. Damages:

- A. Defendant's damages at this time are nominal and speculative, consisting solely of any lost opportunity damages caused by the hold placed on the domain name in dispute.

4. Insurance Coverage

None.

5. Supplementation

Defendant may supplement these disclosures as the litigation proceeds.

Respectfully submitted,

LAW OFFICE OF GARY WAYNE TUCKER

/s/ Gary Wayne Tucker

Gary Wayne Tucker
State Bar No. 24047002

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Initial Disclosures was served on April 8, 2008 on the following counsel of record in the manner shown below:

VIA ELECTRONIC MAIL:

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Attorneys for Plaintiff

/s/ Gary Wayne Tucker
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